

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

JAMES SPEARS, JR

PLAINTIFF

v.

No. 2:14-cv-2-DPM

**JEFFREY HUGHES, Sergeant, East Arkansas
Regional Unit; MITCHELL SPARKMAN, Corporal,
East Arkansas Regional Unit; RODNEY MERRELL,
Corporal, East Arkansas Regional Unit; RENAE
MAYO, Corporal, East Arkansas Regional Unit;
PINKIE HILL, Sergeant, East Arkansas Regional
Unit; and CHRISTOPHER SPEED, Corporal,
East Arkansas Regional Unit**

DEFENDANTS

AMENDED JUDGMENT

1. Before trial, the Court dismissed with prejudice Spears's claims against Sparkman, Merrell, Mayo, Hill, and Speed, pursuant to their settlement agreement. *No* 132.

2. In February 2016, Spears served Hughes with the summons, complaint, and amended complaint. *No* 140 & 143. Hughes didn't answer or file a Rule 12 motion. On Spears's motion, the Court therefore directed the Clerk to enter a Clerk's default. *No* 146 & 147. The Court set a damages trial and directed Spears to send a copy of the Order setting the trial to Hughes's last known address. *No* 147. Spears did. *No* 152.

3. Spears asked that the damages issues be tried to the bench. *No* 154 & 155. The Court convened the damages hearing on 27 February 2017. Hughes did not appear.

At the start of trial, to clarify the issues, the Court dismissed all Spears's claims against Hughes — except the excessive-force claim — without prejudice. For the reasons stated at the end of the trial, the Court found in favor of Spears on his excessive-force claim against Hughes and awarded compensatory damages of \$10,000 and punitive damages of \$5,000. The Court entered judgment against Hughes, including costs and a reasonable attorney's fee, which were to be requested by motion with supporting material. *No* 163.

4. The Court granted as modified appointed counsel's timely motion for attorney's fees and taxable costs. *No* 170. The Court awarded a fee of \$15,920 and costs of \$390. Considering the factors set out in *Kahle v. Leonard*, as well as the amount of the damages, the Court concludes that \$3,750 of the damages awarded against Hughes shall be applied to satisfy Spears's attorney's fees. 563 F.3d 736, 742–43 (8th Cir. 2009); 42 U.S.C. § 1997e(d)(2).

5. The Court enters Amended Judgment for James Spears, Jr., against Jeffrey Hughes for \$27,560. Spears is entitled to \$11,600, which represents his costs and his damages, reduced by the 25% of those damages that he must pay toward his attorney's fee. Spears's lawyer is entitled to \$15,960, which represents his costs and his total fee. This Amended Judgment shall accrue post-judgment interest at 0.81% per annum from 3 March 2017 (the date of the original Judgment) until paid in full. 28 U.S.C. § 1961 (a)-(b).

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

4 May 2017